IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

FAO.No. 33 of 2006()

AGAINST THE ORDER DATED 27/01/2006 IN EA.22/02,EP.7/03 IN OS.249/2001 of SUB COURT, PALA

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APPELLANT/PETITIONER/JD:

PENTA TECH RUBBERS PRIVATE LIMITED,
KURUVILANGAD, REPRESENTED BY MANAGING DIRECTOR
SARASWATHI, W/O.JOSE GEORGE, KANNAMPADATHIL HOUSE,
NAZARETH HILL P.O., KURUVILANGAD.

BY ADV. SRI.K.G.BALASUBRAMANIAN
SRI.K.SHRIHARI RAO

RESPONDENTS:
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1. M/S.K.K.RUBBER INDUSTRIES REPRESENTED
BY MANAGING PARTNER V.T.DEVASSIA,
VALUVETTIKKAL, KALAKAM AMSOM & DESOM,
THALASSERY TALUK.

2. V.T.JOSEPH, KANICHAR AMSOM AND DESOM,
DO.

3. V.T.DEVASSIA, VALUVETTIKKAL,
KALAKAM AMSOM & DESOM, THALASSERY TALUK.

4. C.K.THOMAS, CHOORACKATHADATHIL,
KALAKAM AMSOM & DESOM, THALASSERY TALUK.

BY ADV. SRI.P.C.HARIDAS

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 01/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN &
V.K.MOHANAN, JJ.

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F.A.O. No.33 of 2006 and
I.A. No.3572 of 2007

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Dated this the 1st day of October, 2007.

JUDGMENT

Raman, J.

This is an appeal filed against the order passed by the court below dated 27.1.2006 in E.A. No.22/2006 in E.P. No.7/2003 in O.S. No.249/2001. In execution of a decree for money, property belonging to the appellant was sold. The appellant filed a petition seeking to set aside sale under Order XXI Rule 89 and 90 of the Code of Civil Procedure. The court below, however, dismissed the said application against which the present appeal is filed.

2. During pendency of this proceeding, the parties have compromised the matter and filed a compromise petition as I.A. No.3572/2007. As per the agreement between the parties, the parties have settled their dispute to mutual satisfaction and the appellant has paid off all the claims of the respondents in respect of their dealings and no further amount is due from either party to the other. Hence they pray that full satisfaction of the decree can be recorded. It is also prayed that the appeal be allowed and the

sale of immovable property effected by the court below be set aside and the sale certificate shall also be stand annulled and effaced. The respondents have also handed over possession of the property to the appellant and they can enjoy the same absolutely without any claim from the respondents. It is also agreed that criminal proceedings against some of the parties, Jose K. George and Saraswathi will be withdrawn and parties have agreed to suffer the respective cost. The agreement is signed by all the parties as well as their counsel in accordance with the Code of Civil Procedure. We heard the parties also. In the above circumstances, the agreement is recorded and the order passed by the court below is set aside and the sale is also set aside. The certificate of sale, if any, issued in favour of the respondents shall stand cancelled or effaced. The decree is recorded as satisfied. For further steps, if any, pursuant to the compromise, it is open to the parties to take steps before the Criminal Court. The appeal is disposed of as above.

P.R.RAMAN
Judge

V.K.MOHANAN
Judge

pms